

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Waiver Request by)
)
Syracuse-Dunbar-Avoca School District) File Nos. SLD-243212, SLD-243610
Syracuse, NE)
)
Schools and Libraries Universal Service) CC Docket No. 02-6
Support Mechanism)

ORDER

Adopted: October 31, 2003

Released: November 3, 2003

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1 The Telecommunications Access Policy Division has under consideration a Request for Waiver filed by Syracuse-Dunbar-Avoca School District, Syracuse, Nebraska (Syracuse-Dunbar), seeking a waiver of the Commission's rules governing the schools and libraries universal service support mechanism.¹ Specifically, Syracuse-Dunbar requests a waiver of the filing deadline for two of its Funding Year 2001 applications.² For the reasons set forth below, we deny the Waiver Request.

2 The instant record shows that Syracuse-Dunbar filed two Forms 470 with SLD, which were posted on SLD's website on December 5, 2000, and December 6, 2000.³ On December 11, 2000, SLD notified Syracuse-Dunbar that it had received both of the Forms 470, but not the certifications for the forms.⁴ On December 12, 2001, SLD requested that Syracuse-Dunbar provide SLD with proof that the Form 470 certifications were submitted prior to the close of the filing window.⁵ In response, Syracuse-Dunbar acknowledged that the certifications

¹ Letter from Rod Powell, Syracuse-Dunbar-Avoca School District, to Federal Communications Commission, filed March 26, 2002 (Waiver Request). Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Universal Service Administrative Company (Administrator) may seek review from the Commission. 47 C.F.R. § 54.719(c).

² See Waiver Request.

³ FCC Form 470, Syracuse-Dunbar-Avoca School District, filed December 5, 2000 (Form 470 No. 87160000318251), FCC Form 470 Syracuse-Dunbar-Avoca School District, filed December 6, 2001 (Form 470 No. 262120000322972).

⁴ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Syracuse-Dunbar-Avoca School District, dated December 11, 2000 (regarding Form 470 No. 87160000318251), Letter from Schools and Libraries Division, Universal Service Administrative Company, to Syracuse-Dunbar-Avoca School District, dated December 11, 2000 (regarding Form 470 No. 262120000322972).

⁵ E-mail from Andy Easley, Schools and Libraries Division, Universal Service Administrative Company, to Rod Powell, Syracuse-Dunbar-Avoca School District, dated December 6, 2001 (2:24 p.m.), E-mail from Tom Gill,

for the Forms 470 had not been sent to SLD.⁶ Subsequently, SLD denied Syracuse-Dunbar discounts for both Form 471 applications, on the grounds that SLD had failed to receive a timely certification for the establishing Forms 470.⁷

3 We find that a waiver is not appropriate. A waiver from the Commission is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.⁸ Applicant's assertion that it was a mistake that the Form 470 signature page was never sent is not a special circumstance warranting a waiver of the filing window.⁹ Signature certifications ultimately satisfy the program's policy objective of binding the applicants and service providers to the programs requirements.¹⁰ The signature certification requirement is essential in that it protects the program from fraud and waste, serves as an additional means of holding applicants accountable for their representations, and assists in the efficient administration of the program.¹¹ By failing to submit a signature certification, Syracuse-Dunbar omitted the legally binding act that signifies compliance with program rules.¹² We therefore deny Syracuse-Dunbar's request.

4 ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under

(continued from previous page)

Schools and Libraries Division, Universal Service Administrative Company, to Rod Powell, Syracuse-Dunbar-Avoca School District, dated December 12, 2001 (11 32 a m)

⁶ E-mail from Rod Powell, Syracuse-Dunbar-Avoca School District, to Andy Eisley, Schools and Libraries Division, Universal Service Administrative Company, dated December 12, 2001 (12 31 p m), E-mail from Rod Powell, Syracuse-Dunbar-Avoca School District, to Tom Gill, Schools and Libraries Division, Universal Service Administrative Company, dated December 12, 2001 (12 40 p m)

⁷ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Syracuse-Dunbar-Avoca School District, dated August 7, 2001 Letter from Schools and Libraries Division, Universal Service Administrative Company, to Syracuse-Dunbar-Avoca School District, dated September 28, 2001

⁸ *Northeast Cellular Telephone Co v FCC*, 897 F 2d 164, 1166 (D C Cir 1990) (*Northeast Cellular*), see also *WAIT Radio v FCC*, 418 F 2d 1153, 1159 (D C Cir 1969)(stating that the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis), *cert denied*, 409 U S 1027 (1972)

⁹ See, e g , *Request for Review by Scranton School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No SLD-112318, CC Docket Nos 96-45 and 97-21, Order, 15 FCC Rcd 181 (Com Car Bur 2000) at para. 8.

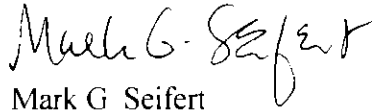
¹⁰ See *Request for Review by Weathersfeld Local Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc* , File Nos SLD-226039 and SLD-226107, CC Docket Nos 96-45 and 97-21, Order, 17 FCCR 18237(Wireline Comp. Bur. 2002)(denying a request for review when Form 470 signature certification was missing)

¹¹ *Id*

¹² *Id*

sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§0.91, 0.291, 1.3, and 54.722(a), that the Waiver Request filed by Syracuse-Dunbar-Avoca School District on March 26, 2002 IS DENIED

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, appearing to read "Mark G. Seifert". The signature is fluid and cursive, with the first name "Mark" and last name "Seifert" clearly distinguishable.

Mark G. Seifert

Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau

